

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

In Re: DAVID ROMAN,

: CHAPTER 13

Debtor

: BANKRUPTCY NO. 19-16860

**ORDER SUSTAINING DEBTOR'S OBJECTIONS TO ALLEGED AMENDED OF
CLAIM NO. 4-2 ("POC") FILED BY U.S. BANK, NATIONAL ASSOCIATION
(TRUSTEE FOR PENNSYLVANIA HOUSING FINANCE AGENCY) ("USB")**

AND NOW, this _____ day of June, 2020, it is hereby ORDERED as follows:

1. The Objections are SUSTAINED.
2. The POC filed by USB is (DISALLOWED in its entirety.) (REDUCED TO
\$ _____).

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA**

In Re: DAVID ROMAN,

: CHAPTER 13

Debtor

: BANKRUPTCY NO. 19-16860

**DEBTOR'S OBJECTIONS TO ALLEGED AMENDED OF CLAIM NO. 4-2 ("POC")
FILED BY U.S. BANK, NATIONAL ASSOCIATION (TRUSTEE FOR PENNSYLVANIA
HOUSING FINANCE AGENCY) ("USB")**

The Debtor now comes and makes the following Objections ("the Objections") to the alleged amended Proof of Claim (No. 4-2) ("the POC") filed in this case by USB:

1. Copies of the first three pages of the POC and the Addenda attached thereto are attached an Exhibit hereto.
2. The bar date for claims filed in this case was fixed at January 10, 2020, and the bar date for governmental claims was fixed at April 29, 2020.
3. USB did not file a proof of claim by January 10, 2020.
4. As a result, the Debtor filed a timely proof of claim, No. 4-1, on behalf of USB, pursuant to Federal Rule of Bankruptcy Procedure 3004, on January 11, 2020, in the amount of \$27,311.65.
5. On April 23, 2020, USB filed what it designated as an "amended proof of claim," designated as proof of claim 4-2, in the amount of \$38,907.20.
6. This "amended proof claim" was filed over three months after the applicable bar date, and no filing of a separate "governmental" claim was filed by

the bar date for governmental claims of April 29, 2020, were that bar date applicable.

7. There is no known authority supporting the right of a claimant to “amend” a claim filed on its behalf by another party, and allowing such an “amendment” would improperly allow a creditor to evade the bar date. Several authorities support the principle that such a filing is improper and untimely, and that the filing of USB should accordingly be stricken. Cf. In re Brooks, 414 B.R. 65, 72-73 (Bankr. E.D. Pa. 2009); In re Hill, 286 B.R. 612, 621 (Bankr. E.D. Pa. 2002); and In re Hamilton, 179 B.R. 749, 753-56 (Bankr. S.D. Ga. 1995).

8. In the alternative, the Addendum to the proof of claim recites a “principal balance” due of \$23,441.73, which is lower than the claim filed by the Debtor (the amount of a judgment, entered on December 27, 2017), but USB then inexplicably adds on to that figure “Interest Due” of \$5767.47, “Fees/Costs Due” of \$6757.47, and Escrow Due for Funds Advanced” of \$2254.71. It appears that all or most of these alleged additional amounts should have been merged into the judgment; and/or should have been, but were not, precisely itemized. See In re Gordon-Brown, 340 B.R. 751 (Bankr. E.D. Pa. 2006).

9. Therefore, if the “amended proof” of claim is not entirely stricken as an improperly-filed claim, the amount of the claim should be reduced to a proper amount which is correctly calculated.

WHEREFORE, the Debtor requests that this court will enter one of the alternative Proposed Orders accompanying the Objections.

/s/DAVID A. SCHOLL
512 Hoffman Street
Philadelphia, PA. 19148
610-550-1765
Attorney for Debtor

Fill in this information to identify the case:

Debtor 1 David Roman

Debtor 2
(Spouse, if filing)

United States Bankruptcy Court for the EASTERN District of Pennsylvania

Case number 19-16860 MDC

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	U.S. BANK NATIONAL ASSOCIATION, (TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY) Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____					
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____					
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? Pennsylvania Housing Finance Agency Name _____ 211 North Front Street Number _____ Street _____ City _____ State _____ ZIP Code _____ 1-800-822-7375 Contact phone _____ Contact email _____			Where should payments to the creditor be sent? (if different) Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____ Contact phone _____ Contact email _____		
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____						
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>4-1</u>					
5. Do you know if anyone else has filed a proof of claim for this claim?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Who made the earlier filing? <u>David A. Scholl, Esq. (Debtor Attorney)</u>					

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>9203</u>
7. How much is this claim?	<u>\$ 38,907.25</u> Does this amount include interest or other charges?
	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001 (c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. Money Loaned _____
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <u>316 W. Fishers Avenue, Philadelphia, PA 19120</u> <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: <u>Recorded Mortgage</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
	Value of property: \$ _____ Amount of the claim that is secured: <u>\$ 38,907.25</u> Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
	Amount necessary to cure any default as of the date of the petition: <u>\$ 38,907.25*</u> *Total Debt POC as loan to mature during life of BK Annual Interest Rate (when case was filed) <u>3.640%</u> <input checked="" type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check all that apply:

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B) _____
- Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). _____
- Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). _____
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). _____
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). _____
- Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. _____

Amount entitled to priority

\$ _____
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/23/2020
MM / DD / YYYY

/s/ Rebecca A. Solarz, Esquire

Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Rebecca A. Solarz</u>	First name	Middle name	Last name
------	--------------------------	------------	-------------	-----------

Title	<u>Bankruptcy Attorney</u>			
-------	----------------------------	--	--	--

Company	<u>KML Law Group, P.C.</u>			
---------	----------------------------	--	--	--

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address	<u>701 Market Street, Suite 5000</u>			
	Number	Street		

<u>Philadelphia</u>	PA	19106
City	State	ZIP Code

Contact phone	<u>(215) 825-6327</u>	Email	<u>rsolarz@kmlawgroup.com</u>
---------------	-----------------------	-------	-------------------------------

Addendum to Total Debt Proof of Claim

- This is a Total Debt Proof of Claim as the loan is to mature during the life of this Bankruptcy.
- As the entire claim is to be paid through the Chapter 13 Plan, the figures listed in Parts 3 and 4 of the 410A will not apply.
- Debtor is responsible for the ongoing payment of all taxes and insurance. Should any forced place disbursements be made by Creditor, a Motion for Relief may be filed.

Case 19-16860-mdc Claim 4 Part 2 Filed 04/23/20 Desc Exhibit 410A History

Page 1 of 1

Part 1: Mortgage and Creditor Information										Part 2: Bank Debtor Information									
Case Number:		19-16860-MDC		Principal Balance		\$23,641.78		Principal & Interest		N/A		Principal & Interest		N/A		Principal & Interest		N/A	
Debtor 1		David Roman		Interest Due		\$5,767.47		Pre-petition Fees Due		N/A		Principal & Interest		N/A		Principal & Interest		N/A	
Debtor 2				MIP Amount		\$0.00		Escrow DefFor Funds Advanced		N/A		Principal & Interest		N/A		Monthly Escrow		N/A	
Last 4 Digits to Identify		9203		Fees / Costs Due		\$7,243.27		Projected Escrow Shortage		N/A		Principal & Interest		N/A		Mortgage Insurance		N/A	
Creditor		U.S. Bank National Association, (Trustee for the Pennsylvania Housing Finance Agency)		Escrow Def for Funds Advanced		\$2,254.73													
Servicer		Pennsylvania Housing Finance Agency		Less Total Funds on Hand		\$0.00		Less Total Funds on Hand		N/A									
Fixed Accrual, Daily Simple Interest or Other		Fixed Accrual		TOTAL DEBIT		\$38,907.25		Total Prepetition Arrears		N/A		Total Monthly Payment		N/A					
Part 4: Bank Debtor Information										Part 5: Dates of Performance									
A.		B.		C.		D.		E.		F.		G.		H.		I.		J.	
mm/dd/yyyy		+		+		+/-		from the list		calculated		+		+		+/-		+/-	
Date		Contractual Payment Amount		Funds Received		Amount Incurred		Description		Contractual Due Date		Prin Int & Esc Past Due Balance		Amount to Principal		Amount to Interest		Amount to Escrow	
12/27/2017		27,311.65		FC Judgment Entered								(\$2,254.73)		263.16		23,641.78		1,151.98	
1/3/2018		1,700.00		FC Sheriff Deposit								(\$700.00)		23,641.78		23,641.78		(\$2,254.73)	
2/8/2018		130.00		FC Title Cost								130.00		23,641.78		23,641.78		(\$2,254.73)	
2/29/2018		0.47		FC Mailing Cost								0.47		23,641.78		23,641.78		(\$2,254.73)	
4/23/2018		700.11		FC Sheriff Costs								700.11		23,641.78		23,641.78		(\$2,254.73)	
6/19/2018		600.00		Prior BK Attorney Fee								600.00		23,641.78		23,641.78		(\$2,254.73)	
6/19/2018		500.00		Prior BK Attorney Fees								500.00		23,641.78		23,641.78		(\$2,254.73)	
9/19/2018		225.00		Prior BK Attorney Fees								225.00		23,641.78		23,641.78		(\$2,254.73)	
8/9/2019		825.00		FC Att'y - Recst Sale								825.00		23,641.78		23,641.78		(\$2,254.73)	
8/11/2019		1,700.00		FC Sheriff Deposit								1,700.00		23,641.78		23,641.78		(\$2,254.73)	
8/14/2019		95.00		FC Service Cost								95.00		23,641.78		23,641.78		(\$2,254.73)	
8/15/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/15/2019		5.75		FC Mailing Cost								5.75		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06		23,641.78		23,641.78		(\$2,254.73)	
8/20/2019		1.06		FC Mailing Cost								1.06							